

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

FOURTH DISTRICT

4th District Appellate
Court, IL

In re: D.J., Minor,)
THE PEOPLE OF THE STATE OF ILLINOIS,)
Petitioner-Appellee,)
v. (No. 4-13-0477)) Honorable
MONTRICE MORROW,) Richard P. Klaus,
Respondent-Appellant.) Judge Presiding.

¶ 2 In September 2011, the State filed a petition for adjudication of abuse with respect to D.J., the minor child of respondent mother, Nakia Morrow, and respondent father, Montrice Morrow, as well as with respect to An. B., Lat. B., Laa. B., Lae. B., Az. B., and Ly. B., the minor children of respondent mother. The trial court adjudicated the minors wards of the court and placed custody and guardianship with the Illinois Department of Children and Family Services

(DCFS). In December 2012, the State filed a motion to terminate respondents' parental rights. In April 2013, the court found respondents unfit. In May 2013, the court determined it was in the minors' best interest that respondents' parental rights be terminated.

¶ 3 On appeal, respondents argue the trial court erred in finding them unfit and terminating their parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In September 2011, the State filed a petition for adjudication of abuse with respect to D.J., born in January 1997; An. B., born in July 1998; Lat. B., born in June 2000; Laa. B., born in June 2000; Lae. B., born in July 2001; Az. B., born in May 2002; and Ly. B., born in May 2003. Nakia Morrow is the mother of all seven children, and Montrice Morrow is the father of D.J. The petition alleged the minors were abused pursuant to section 2-3 of the Juvenile Court Act of 1987 (705 ILCS 405/2-3 (West 2010)) by reason of respondent father inflicting physical injury upon them by other than accidental means and inflicting excessive corporal punishment on them. The petition also alleged the minors were abused by reason of respondent mother allowing to be inflicted upon them physical injury by other than accidental means. The trial court found probable cause to believe the minors were neglected and placed temporary custody with DCFS.

¶ 6 In November 2011, the State filed an amended petition for adjudication of abuse, alleging the minors were also abused by reason of respondent mother allowing to be inflicted upon them excessive corporal punishment. The trial court found the minors were abused based on the physical abuse and excessive corporal punishment. In its December 2011 dispositional order, the court found respondents unfit. The court also found it in the minors' best interest that they be made wards of the court and that custody and guardianship be placed with DCFS.

¶ 7 In December 2012, the State filed a motion to terminate respondents' parental rights. The State alleged respondents were unfit because they (1) failed to make reasonable efforts to correct the conditions that were the basis of the removal of the minors from them (count I) (750 ILCS 50/1(D)(m)(i) (West 2012)) and (2) failed to make reasonable progress toward the minors' return within the initial nine months after the adjudication of abuse (count II) (750 ILCS 50/1(D)(m)(ii) (West 2012)). The State also alleged respondent father was unfit because he failed to maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare (count III) (750 ILCS 50/1(D)(b) (West 2012)).

¶ 8 In February 2013, the trial court held a hearing on the motion to terminate parental rights. Dr. Rose Adkisson testified she provided individual counseling for respondent mother. She stated her attendance was "very good" and she only missed one session. Adkisson stated respondent mother progressed toward her goals, became more positive, and tried to follow the steps she was supposed to pursue. She did not successfully complete her goals, however, because she was inconsistent in providing drug drops and did not understand that she needed to call in every day to see if a drop was needed.

¶ 9 Adkisson stated she became aware of an incident between respondent mother and Lat. B., in August 2011 in which respondent mother allegedly choked her daughter. Adkisson stated such an action would "definitely" be a concern if it happened and more work would be required as to the parenting goal.

¶ 10 Adkisson stated respondent father's participation in counseling was "very good." He had perfect attendance in counseling except for a period of time he was incarcerated. Adkisson stated he made progress on his goals. Respondent father did "fine" during the one visit

that Adkisson observed.

¶ 11 George Cook, a therapist and facilitator at Cognition Works, testified he referred respondent father to the Change Program, which is a cognitive behavioral program focusing on thinking patterns with the goal of identifying maladaptive thinking patterns and providing more cooperative problem-solving skills. Respondent father started the program in January 2012 and attended 26 sessions. He had six absences, three of which were unexcused. Although respondent father did not successfully complete the program, Cook believed he was progressing toward understanding the problems with his maladaptive thinking patterns. Respondent father completed parenting classes.

¶ 12 Debbie Nelson, a facilitator at Cognition Works, testified she referred respondent mother to the Options Program, which includes goals to help women learn about abuse and learn skills to help in problem solving. Respondent mother was able to identify her maladaptive thinking patterns. Nelson stated her attendance was "good," and she successfully completed the program in May 2012.

¶ 13 Patti-Joy Crone testified she worked at Prairie Center in Danville. She found respondent father to be appropriate for treatment to address his cannabis abuse. Starting in August 2012, Crone found respondent father to be "a little bit resistant, but within a month or two, he was engaging completely, improving in his attendance and becoming much more open to self-disclosure and change." He recognized his addiction to alcohol, which had not been originally diagnosed, and completed the treatment successfully in November 2012.

¶ 14 Laurie Britt, an addictions counselor at Prairie Center, testified respondent mother was to attend individual and group sessions, comply with treatment goals, and undergo random

drug testing. The treatment started in July 2012. Respondent initially did well but "attendance issues" developed. Respondent mother stated her lack of attendance was based on her attempts to find a second job. She eventually took a second job even though it conflicted with her treatment services. She did not successfully complete her treatment due to her lack of attendance and was discharged in September 2012.

¶ 15 Autumn Jackson, a DCFS caseworker, testified she became the manager of the minors' case in September 2011. Respondent mother referred to the physical altercation between D.J. and respondent father as "an accident." She admitted spanking her children with a belt. She reported using marijuana recreationally and admitted using during the summer of 2011. Jackson stated respondent father denied inflicting the mark on D.J. and stated it occurred when D.J. climbed out a window and fell in some bushes.

¶ 16 Anina Blankenship, a DCFS placement worker, testified she assumed management of the minors' case in January 2012. She stated attendance at visitation was not an issue and the visits went well.

¶ 17 Amanda Groves, a case manager for Center for Youth and Family Solutions, testified she became the case manager in June 2012. In July 2012, Groves became aware that respondent mother was contacted by Lat. B.'s foster parent about some behavioral issues. Respondent mother went over to speak with Lat. B., which was in violation of the rule that she have no contact except when supervised by the agency. Lat. B. stated respondent mother showed up, took her upstairs to talk with her, and then choked her. Respondent mother admitted going to the foster home and talking with Lat. B., but she denied choking her.

¶ 18 Groves stated she learned the children were listed as friends on respondent

mother's Facebook page in violation of the no-unsupervised contact order. The children were still listed in December 2012 after respondent mother was told in August 2012 that this was not permitted.

¶ 19 Groves supervised the majority of visits between respondents and the children. Two caseworkers were always present because respondents did not step in at the first visit when the children misbehaved. The problems at the visits continued until December 2012. Groves stated respondent father does not offer much interaction with the children, sits by himself, and plays on his phone or looks down at the ground. Respondents missed eight or nine visits. Groves also testified respondent mother "missed a couple of drug drops," but those she did attend turned out negative.

¶ 20 Respondent mother testified she was living in Rantoul and working at Dollar General when the case opened. She moved to Danville in April 2012 and works at Citibank. She stated she completed her substance-abuse treatment. She did not complete a treatment program prior to April 2013. She had difficulty in working the drug drops around her employment because the drops occurred at different times of the day. She also stated she completed parenting classes and domestic-violence classes.

¶ 21 Respondent father testified he had regular contact with all of the children during visitation and treated them as his own. He made all the visits he could unless he had to work overtime or had car trouble. Respondent father started anger-management classes after he left prison in December 2011. However, he had yet to complete them as he was trying to make up for past absences. He was last employed in September 2012. He stated he successfully completed parenting classes in April 2012 and substance-abuse treatment in November 2012.

¶ 22 Following closing arguments, the trial court found respondents unfit. In May 2013, the court conducted the best-interest hearing and found it in the minors' best interest that respondents' parental rights be terminated. Both respondents appealed, and this court consolidated those appeals.

¶ 23 II. ANALYSIS

¶ 24 A. Termination of Parental Rights

¶ 25 1. *Unfitness Findings*

¶ 26 Respondent argues the trial court's findings that she was unfit was against the manifest weight of the evidence. We disagree.

¶ 27 In a proceeding to terminate a respondent's parental rights, the State must prove unfitness by clear and convincing evidence. *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). " 'A determination of parental unfitness involves factual findings and credibility assessments that the trial court is in the best position to make.' " *In re Richard H.*, 376 Ill. App. 3d 162, 165, 875 N.E.2d 1198, 1201 (2007) (quoting *In re Tiffany M.*, 353 Ill. App. 3d 883, 889-90, 819 N.E.2d 813, 819 (2004)). A reviewing court accords great deference to a trial court's finding of parental unfitness, and such a finding will not be disturbed on appeal unless it is against the manifest weight of the evidence. *In re Veronica J.*, 371 Ill. App. 3d 822, 828, 867 N.E.2d 1134, 1139 (2007).

¶ 28 In the case *sub judice*, the trial court found respondents unfit for failing to make reasonable progress toward the return of the minors within the initial nine months after the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2012)). The initial nine-month period following the adjudication of abuse ended on September 19, 2012.

¶ 29 "Reasonable progress" is an objective standard that "may be found when the trial court can conclude the parent's progress is sufficiently demonstrable and of such quality that the child can be returned to the parent in the near future." *In re Janine M.A.*, 342 Ill. App. 3d 1041, 1051, 796 N.E.2d 1175, 1183 (2003).

"[T]he benchmark for measuring a parent's 'progress toward the return of the child' under section 1(D)(m) of the Adoption Act encompasses the parent's compliance with the service plans and the court's directives, in light of the condition which gave rise to the removal of the child, and in light of other conditions which later become known and which would prevent the court from returning custody of the child to the parent." *In re C.N.*, 196 Ill. 2d 181, 216-17, 752 N.E.2d 1030, 1050 (2001).

"At a minimum, reasonable progress requires measurable or demonstrable movement toward the goal of reunification." *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067, 859 N.E.2d 123, 137 (2006).

¶ 30 During the applicable time frame, respondent mother did not accomplish her counseling goals and did not complete a substance-abuse program. She also had an unauthorized contact with Lat. B., in which she choked her, and maintained unauthorized contact with the children on Facebook. She missed a number of visits, failed to discipline the children at visits, and was inconsistent in providing drug drops.

¶ 31 Respondent mother's main argument that the trial court's finding on the reasonable-progress ground was against the manifest weight of the evidence centers on a letter

dated April 2, 2013, wherein Diana Hernandez, an addictions counselor, stated respondent mother successfully completed 24 hours of outpatient treatment between February and April 2013. However, this progress is well beyond the nine-month period alleged in the motion to terminate parental rights. While respondent mother may have made some progress, that progress cannot be deemed to be reasonable. "The law does not afford a parent an unlimited period of time to make reasonable progress toward regaining custody of the children." *In re Davonte L.*, 298 Ill. App. 3d 905, 921, 699 N.E.2d 1062, 1072 (1998). The evidence indicated respondent mother had not made reasonable progress that would demonstrate movement toward the goal of reunification with her children. Nothing respondent did indicated the children could be returned to her in the near future. The trial court's finding of unfitness on this ground was not against the manifest weight of the evidence.

¶ 32 Respondent father also failed to demonstrate reasonable progress during the applicable time frame. Although he had completed a substance-abuse program, he did not start participating in the program until August 2012, shortly before the end of the nine-month period. Further, he failed to complete his anger-management goal due to missing classes. He also missed a number of visits. While respondent father may have taken some steps in the right direction, any progress cannot be said to have been reasonable. Moreover, the evidence indicated he had not made reasonable progress that would demonstrate movement toward the goal of reunification with his son. The trial court's finding of unfitness on this ground was not against the manifest weight of the evidence.

¶ 33 Because the grounds of unfitness are independent, we need not address the remaining grounds as to both respondents. See *In re H.D.*, 343 Ill. App. 3d 483, 493, 797 N.E.2d

1112, 1120 (2003) ("As the grounds for unfitness are independent, the trial court's judgment may be affirmed if the evidence supports the finding of unfitness on any one of the alleged statutory grounds").

¶ 34

2. Best-Interest Findings

¶ 35 Respondents argue the trial court erred in finding it in the minors' best interest that their parental rights be terminated. We disagree.

¶ 36 "Courts will not lightly terminate parental rights because of the fundamental importance inherent in those rights." *Veronica J.*, 371 Ill. App. 3d at 831, 867 N.E.2d at 1142 (citing *In re M.H.*, 196 Ill. 2d 356, 362-63, 751 N.E.2d 1134, 1140 (2001)). Once the trial court finds the parent unfit, "all considerations must yield to the best interest of the child." *In re I.B.*, 397 Ill. App. 3d 335, 340, 921 N.E.2d 797, 801 (2009). When considering whether termination of parental rights is in a child's best interest, the trial court must consider a number of factors within "the context of the child's age and developmental needs." 705 ILCS 405/1-3(4.05) (West 2012). These include the following:

"(1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's familial, cultural[,] and religious background and ties; (4) the child's sense of attachments, including love, security, familiarity, continuity of affection, and the least[-] disruptive placement alternative; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of

every family and child; (9) the risks related to substitute care; and
(10) the preferences of the person available to care for the child."

Daphnie E., 368 Ill. App. 3d at 1072, 859 N.E.2d at 141.

See also 705 ILCS 405/1-3(4.05)(a) to (4.05)(j) (West 2012).

¶ 37 A trial court's finding that termination of parental rights is in a child's best interest will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Anaya J.G.*, 403 Ill. App. 3d 875, 883, 932 N.E.2d 1192, 1199 (2010). A decision will be found to be against the manifest weight of the evidence in cases "where the opposite conclusion is clearly evident or where the findings are unreasonable, arbitrary, and not based upon any of the evidence." *In re Tasha L.-I.*, 383 Ill. App. 3d 45, 52, 890 N.E.2d 573, 579 (2008).

¶ 38 The best-interest report indicated D.J., age 16, was placed with his two younger brothers in a traditional foster home and is doing well. His goal is to be independent, as he does not wish for someone to have guardianship or custody of him. D.J. has the option of attending visits with respondents and has stated there are occasions he would rather play basketball or be with his friends. At visits, the report indicated he "has a hard time with his family" and his interactions with respondent father "are limited."

¶ 39 The trial court's decision that termination was in D.J.'s best interest was not against the manifest weight of the evidence. There was no evidence of any bond between D.J. and respondents, and it appeared from the report that D.J. was not even interested in visiting with his parents. D.J. has been subjected to a great deal of turmoil during the two years since respondent father beat him with a belt leading to respondent father's aggravated-domestic-battery conviction. Moreover, he had attended three schools in one year, but his foster parent supports

him in his academics and goals. Little purpose would be served by continuing respondents' parental rights, even considering his age. Instead, termination allows the caseworkers and foster parent the opportunity to work with D.J. toward his goal of independence without the interruption and instability caused by maintaining the strained relationship between him and respondents.

¶ 40 The report indicated An. B., age 14, was placed in a traditional foster home with a foster mother and five other children. Her foster mother indicated she is "doing wonderful," "has stabilized and flourished," and "no longer has behavioral issues in the home" that caused her to run away from foster placements. She would like to be adopted by her foster mother and did not wish to return home. The report indicated An. B. had been receiving and responding to phone calls from respondent mother, some of which upset her. She chooses not to participate in visits "because she feels she is continually disappointed and frustrated with her mother's lack of attendance" and the lack of attention she receives at those visits.

¶ 41 The report indicated Lat. B., age 12, was placed in a traditional specialized foster home with her twin sister. She is stabilizing in the foster home but was arrested for aggravated battery at school. She did not want to participate in visits because "she does not like the way her mother treats her like a baby."

¶ 42 The report indicated Laa. B., age 12, resided with her twin sister, Lat. B. Their foster mother signed a permanency agreement and would like to have guardianship of both girls. Laa. B. attends visits and wants to see her mother, stepfather, and siblings. She becomes irritated when she does not receive the attention she believes she deserves. She is "constantly disappointed by the empty promises made at visits to bring clothes, makeup, or money."

¶ 43 The report indicated Lae. B., age 11, resided in a traditional foster home with his

two brothers. He is doing well and very happy being placed with his brothers. His foster parent did not sign a permanency agreement but agreed to keep him until an adoptive placement is obtained for him. He enjoys visits but does not understand why respondent mother misses the visits. He shows visible stress while at visits.

¶ 44 The report indicated Az. B., age 11, resided in a relative foster home in Joliet. She wants to be adopted by her aunt, who had signed a permanency agreement and intends to adopt her. When she visited with respondents prior to moving to Joliet, the visits were "chaotic." Since being placed in Joliet, respondent mother made no effort to visit.

¶ 45 The report indicated Ly. B., age 10, resided in a traditional foster home with his two brothers. He has adjusted well and gets along well with his brothers. His foster parent agreed to keep them until a permanent placement is found. Ly. B. aids Lae. B., who has autism, and is able to calm him down. Ly. B. is excited to go to visits and "constantly asks when he can see his mother." He becomes upset when his mother misses a visit and does not understand why she cancels.

¶ 46 The report indicated respondent mother continued to attempt to communicate with her children outside of supervised visits despite being told multiple times it was inappropriate. She also "continually violates the court-ordered supervised visitation." She is inconsistent in her attendance and participation in visits, which "often causes frustration for the children."

¶ 47 The evidence indicated the minors were in placements where the foster parents were looking after their needs, some of which involved behavioral or physical issues. However, the children were being adversely affected by respondent mother's inconsistent visitation and poor way in which the visits occurred. Broken promises or cancelled visits have led to dispirited

children, some of whom no longer want to visit and others who struggle to understand why they do not occur. In the order terminating respondent mother's parental rights, the trial court found she was "incapable of providing permanency" and she was "repeatedly violating court orders and the service plan, in what appears to be a concerted effort to disrupt both the placements and the respondent minors' lives." Given respondent mother's inability to cooperate with caseworkers or to comply with court orders, the evidence clearly demonstrates she would be unable to provide the stability and permanence the minors' need and deserve in their formative years. Based on the evidence presented, we find the trial court's order terminating respondents' parental rights was not against the manifest weight of the evidence.

¶ 48

III. CONCLUSION

¶ 49

For the reasons stated, we affirm the trial court's judgment.

¶ 50

Affirmed.